

MEMORANDUM

January 26, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: PHILIP S. MILLER
Assistant County Counsel
General Litigation Division

RE: Claim of City of Pasadena

DATE OF
INCIDENT: October 20, 2004

AUTHORITY
REQUESTED: \$61,500

COUNTY
DEPARTMENT: Department of Public Works

CLAIMS BOARD ACTION:



Approve



Disapprove



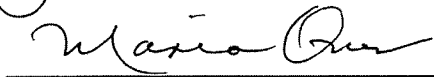
Recommend to Board of
Supervisors for Approval


ROCKY A. ARMFIELD

, Chief Administrative Office


JOHN F. KRATTLI

, County Counsel


MARIA M. OMS

, Auditor-Controller

on February 6, 2006

SUMMARY

This is a recommendation to settle for \$61,500 a claim for damages filed by the City of Pasadena for street and sidewalk repairs above a ruptured storm drain maintained by the County.

LEGAL PRINCIPLES

A public entity is liable under the law of inverse condemnation for damage caused to property, when the damage was caused by a public improvement as deliberately designed and constructed by the public entity, whether or not the damage was foreseeable. A prevailing plaintiff in an inverse condemnation action is entitled to an award of reasonable attorneys' fees.

SUMMARY OF FACTS

On October 20, 2004, a County-maintained storm drain in Pasadena burst, sending a wall of water into the street and onto adjacent properties. The storm drain experienced an increase in pressure due to severe rains, which caused water to explode through an unsecured cover.

The escaped water resulted in the buckling of the roadway located at Del Mar Boulevard near Allen Boulevard in the City of Pasadena. The City repaired the road and sidewalk at a cost of \$123,000.

The County had a storm drain maintenance plan in place that consisted of regular visual inspections of the storm drain system. No maintenance issues were noted during the last visual inspection prior to the incident.

DAMAGES

The proposed settlement calls for the County to reimburse the City for one-half of the cost to repair the road and sidewalk.

STATUS OF CASE

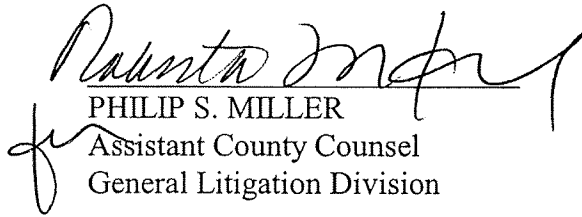
This matter is in the claim stage, and no expenses have been incurred.

EVALUATION

This is a claim of disputed liability. Should this matter become a lawsuit and proceed to trial, a jury could find that the County's storm drain design and maintenance plan was defective, because visual inspections were insufficient to detect or prevent the unsecured cover. If the jury finds that the design plan was defective, the County could be liable under an inverse condemnation cause of action.

We join with our third party administrator, Carl Warren and Company, in recommending a settlement of this matter in the amount of \$61,500. The Department of Public Works concurs in the recommendation.

APPROVED:


PHILIP S. MILLER
Assistant County Counsel
General Litigation Division

PSM:eaw